

Application No.: 09/740,559

Docket No. D02311

REMARKS**A. Status of the Application**

Claims 1-26 were under consideration in the instant application.

With this response the Applicant has requested the amendment of Claim 9, and that cancellation of claims 1-8 and 14-26 be canceled.

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B. Rejections of the Claims under 35 U.S.C. § 102

The Examiner rejected claims 1-4, 6-11, 13-17, 19 and 20 as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,420,866 ("Wasilewski"). In doing so the Examiner contended that Wasilewski teaches transport video streams that are authorized, and the transport of authorized messages. The Examiner found support for this position in Wasilewski's disclosure that "elementary streams" can include both video, audio, and *other data*. (col. 1, lines 27-35).

While the Applicants do not share the Examiner's opinion that the type of conditional message transmission and authorization disclosed in the instant application can be properly inferred from a single reference to "other data", they have requested the amendment of Claim 9 so as to further clarify the invention. The presently amended Claim 9 (the only remaining independent claim) clearly recites a multi-tiered process involving multiple conditional receivers that is not anticipated by Wasilewski's disclosure of EMM entitlement.

Reconsideration is respectfully requested.

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C. Rejection of the Claims under 35 U.S.C. § 103

Claims 5, 12 and 19 have been rejected as unpatenable under 35 U.S.C. § 103(a) over Wasilewski in view of U.S. patent No. 5,619,250 ("McClellan"). The pending amended claims are clearly distinguishable over Wasilewski, and any combination with McClellan (which does not perform authorization of software messages) would not result in the Applicants' invention. Again, reconsideration of the rejection is respectfully requested.

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CONCLUSION

The presently amended claims are believed to patentably distinguishable from the cited art, and Applicant respectfully requests that they be passed to allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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